

SUBJECT 5

Re: Mail

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Proponent: Commodity Classification Standards Board

Present Classification Provisions

Item	Description	Class
188150	United States or Foreign Mail , see Note, item 188152, in packages	100
188152	NOTE—Applies only where the consignee is a United States government or foreign government postal facility.	

Proposed Classification Provisions

Item	Description	Class
⇒A-NEW	Mail , see Note, item B-NEW, in packages	77.5
⇒B-NEW	NOTE—United States Postal Service regulations notwithstanding, for classification purposes mail is defined as matter shipped for acceptance, processing and delivery by a government postal facility.	
188150	United States or Foreign Mail , see Note, item 188152, etc.....	⇒Cancel; see item A-NEW
188152	NOTE—⇒Cancel; see item B-NEW.	

Analysis

Background

This proposal was generated from Research Project 977 on mail. The project was initiated in response to interpretation questions as to what constitutes mail for classification purposes. Often carriers handle postal matter which, from all outward appearances, is mail in that it is shipped in United States Postal Service (USPS) containers and the addresses of the sender and ultimate recipient and payment for delivery service are affixed or imprinted to each piece. However, it might not meet the USPS's definition of mail. A photograph of such a shipment is shown on the right and sample of an individual piece of mail from that shipment is shown on the following page.



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The definition of mail, which is set forth in 39 CFR Part 111, §111.1, Mailing Standards of the USPS, Domestic Mail Manual, is “any mailable matter that is accepted for mail processing and delivery by the USPS. Also, the sum total of the mail at any time that is in USPS custody. To deposit a mailable item in a collection box or present the item (or a mailing for large quantities of mail pieces) at a post office or business mail entry unit.” From this definition, the postal matter that is handled by member carriers, such as that pictured above, is not considered mail until it is in the custody or control of the USPS. For simplicity, the involved postal matter will be referred to as *mail* in this analysis of the proposal.



In conjunction with the research project, two-hundred and sixty-four bulk mail fulfillment companies and seven trade associations were contacted on November 21, 2006 and July 2, 2007 and were asked to provide information on the transportation characteristics of mail. Four shippers responded with usable information. Additional data was derived from member carriers, carrier dock surveys, and the density study. In total, 179 density figures were gathered.

History of Item 188150

Item 188150 was established by action taken on Subject 39 of Docket 81 (November, 1957), with the provisions applying only on U.S. mail. The establishing docket record showed an average density of 10.03 pcf, but the file doesn't explain as to how that number was arrived. No specifics were offered regarding other transportation characteristics, though there was some discussion of liability. The record stated that “there is no liability on the part of the carrier in the handling of Mail,” for the government. However, it was noted that under contracts of the time the government could fine a carrier if loss or damage was due to carrier negligence.

The item was established with a Note requiring that both the consignor and the consignee be U.S. post offices. The restriction was deemed necessary so that carriers would not be called upon to act as “regular postal delivery units,” handling individual pieces of mail. The provisions first appeared in Supplement 5 to NMFC A-4, effective August 12, 1958.

Subject 105 of Docket 133 (March, 1968) amended item 188150 to also apply on foreign mail. The record contained no specific information regarding transportation characteristics, but it was observed that foreign mail should not be appreciably different than domestic mail. The Note, item 188152, was amended accordingly, and the reference to post offices was changed to government postal facilities. The amended provisions were first published in Supplement 6 to NMFC A-10, effective October 3, 1968.

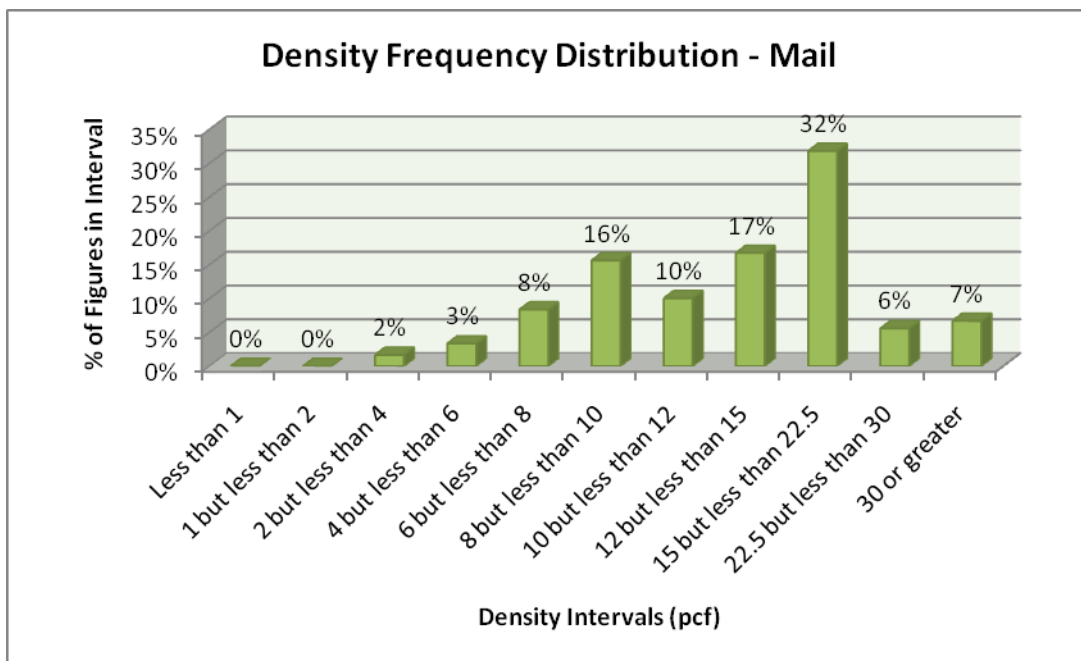
Subject 2 of Docket 993 (August, 1999) was a proposal to amend the attendant Note, item 188152, to require that only the consignee be a government postal facility, thus enabling item 188150 to apply on mail shipped by private mailing services. At the time, the provisions of item 188150 were restricted to postal matter where both the consignor and consignee were government postal facilities. As a result, the provisions of sub 2 of item 4660, Advertising Matter,

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NOI: Paper or paperboard, and item 161870, Printed Matter, paper or paperboard, NOI, among others, were applied to shipments from private mailing services to the USPS. Information of record shows a single density figure of 13 pcf. The proposal was approved as docketed and the changes were first published in Supplement 7 to NMF 100-Y, effective October 16, 1999. The provisions have remained unchanged since then.

Transportation Characteristics

Density: Mail has a density range from 2.10 to 44.56 pcf and an average density of 15.32 pcf. While the density range is wide, the density mode—that is the most frequently occurring density figure—is 20.20 pcf. Further, the frequency distribution chart below shows that the majority of density figures are clustered around the average density.



Stowability & Handling: Mail is shipped in bulk bins, bags, boxes or open-top fibreboard or plastic containers or trays. Often the bags, boxes or trays are palletized. Open-top containers may be used as top freight, though they may be more difficult to stow and handle than other general box-type freight. An example of an open-top container is shown in the photograph on the left.



Some extra time in paperwork may be required to ensure compliance with federal regulations. 39 CFR §310.4 states: "Private carriers are cautioned to make sure that their carriage of matter is lawful within the definition, exceptions, suspension, and conditions contained in this part and in part 320 of this chapter. They should take reasonable measures to inform their customers of the contents of these regulations so that only proper matter is tendered to them for carriage. Carriers should desist from carrying any matter when the form of shipment, identity of sender or

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recipient, or any other information reasonably accessible to them indicates that matter tendered to them for carriage is not proper under these regulations.”

Liability: There is no evidence that mail is unusually susceptible to theft, liable to damage or prone to damage other freight with which transported. Most if not all mail is time-sensitive and, therefore, perishable.

It should be noted that when transporting mail, the liability assumed by the carrier is greater than when shipping most general boxed freight. According to 39 CFR §310.5, if a carrier engages in, causes, or assists in activity made unlawful by the Private Express Statutes (as set forth in 39 CFR §310), even if inadvertently, the USPS may require that carrier to pay an amount or amounts not exceeding the total postage to which it would have been entitled had it carried the letters between their origin and destination. The amount equal to postage will be due and payable not later than 15 days after receipt of formal demand from the Inspection Service or the Chicago Rates and Classification Service Center (RCSC) unless an appeal is taken to the Judicial Officer Department in accordance with rules of procedure set out in 39 CFR §959. Refusal to pay an unappealed demand or a demand that becomes final after appeal will subject the violator to civil suit by the Postal Service to collect the amount equal to postage. The payment of amounts equal to postage on violation shall in no way limit other actions to enforce the Private Express Statutes by civil or criminal proceedings.

Relationship to CCSB Policies and Guidelines

According to CCSB policy, absent any unusual or significant stowability, handling or liability characteristics, density is of prime importance in the assignment of classes. Mail has an average density of 15.32 pcf, which would generally be associated with a class 70 according to CCSB density guidelines. However, CCSB policy states that unusual or significant stowing, handling or liability characteristics may warrant deviation from its density guidelines.

Complying with federal regulations pertaining to mail may make it more difficult to handle and stow. Most if not all mail is time-sensitive or perishable. Also, should a carrier inadvertently accept a shipment of mail that is unlawful, the carrier may be liable for an amount or amounts not exceeding the total postage had it carried the letters between their origin and destination. CCSB precedent is to assign one or more classes higher than that associated with the average density to freight with added stowing, handling or liability concerns. Assigning class 77.5 to mail, as proposed, would be consistent with CCSB policy and precedent.

CCSB updating policy is to establish or amend classifications for commodities that are a source, or potential source, of interpretation disputes so as to eliminate or avoid those disputes. As indicated, interpretation questions have arisen as to what constitutes mail for classification purposes. Notwithstanding the USPS regulations' definition of mail, defining *mail* for classification purposes as "matter shipped for acceptance, processing and delivery by a government postal facility," as proposed, should help eliminate the interpretation questions pertaining to the definition of mail.

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CCSB clarification, simplification and uniformity policy is to eliminate excess or unclear wording, and employ language that is concise and clear as to intent. The provisions of item 188150 provide for United States or foreign mail; however, for classification purposes there is no difference between United States and foreign mail, rendering the distinction superfluous. Removing this distinction, as proposed, would be consistent with CCSB policy.